UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,805	02/04/2004	Clay Fisher	SON5180.84A	3337

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EXAMINER
DAYE, CHELCIE L

ART UNIT	PAPER NUMBER
2161	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action **Before the Filing of an Appeal Brief**	**Application No.** 10/771,805	**Applicant(s)** FISHER ET AL.	
	Examiner CHELCIE DAYE	**Art Unit** 2161	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>01 June 2010</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

  a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

  b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

    Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

  (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

  (b)☐ They raise the issue of new matter (see NOTE below);

  (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

  (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

    NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

  The status of the claim(s) is (or will be) as follows:

  Claim(s) allowed: _____.

  Claim(s) objected to: _____.

  Claim(s) rejected: _____.

  Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/Apu M Mofiz/
Supervisory Patent Examiner, Art Unit 2161

Continuation of 11. does NOT place the application in condition for allowance because: the applicant continues to re-hash the same premise of arguments as found within the last submitted response.

Applicant argues the provisional application 60/531,565 does not provide support for "receiving new content within a request submitted by a user" as recited by the Lamkin application 2006/0159109 at paragraphs [0069].
Examiner respectfully disagrees. To begin, the examiner relies upon the Provisional application 60/531,565 filed December 19, 2003 for the disclosure of the above-argued feature " receiving new content within a request submitted by a user" as taught by the Lamkin published application 2006/0159109 (see [0069]). The Provisional Application teaches "In accordance with another embodiment of the present invention a search engine is provided that searches for entities and collections at located within different trust levels. In one embodiment, the results of the search are based upon at least one of the trust level the entity is located at and metadata associated with the entity. A user may also base the search results upon a user profile or a specified request" (see pg.13 of 99, 1st paragraph); wherein the search (i.e. request) within the search engine is clearly performed by a user . The Provisional also teaches "There may be various types of entities within a collection and the content manager determines which version to playback based on rules and criteria. The rules or criteria can include: a Rating (e.g., G, PG, PG-13, R), a display device format (e.g., 16:9, 320x240 screen size), bit rates for transferring streaming content, and input devices available (e.g., it does not make sense to show interactive content that requires a mouse when only a TV remote control is available to the user). The content manager provides graceful degradation of the entities and the playback of the collection. The content manager uses the collection name service module to request new content for playback. The content manager coordinates all of the rules and search criteria used to find new content" (see pg.42 of 99, 1st and 2nd paragraphs, "The Content Manager"). The above excerpt discloses the requesting of new content along with the finding (i.e. detecting) of the new content. Even further, the Provisional Application teaches "the new content acquisition agent acts as a broker on behalf of a specific user to acquire new content collections and the associated access rights for those collections. This may involve an e-commerce transaction. It uses the Content Search Engine and a Content Filter to locate and identify the content collection desired and negotiates the access rights through the Access Rights Manager. Content filter is not part of the playback engine but instead part of the content manager and the New Content Acquisition Agent" (see pg.58 of 99, 1st paragraph, "New Content Acquisition Agent (NCAA)"). The above excerpt continues to disclose the above argued feature of "detecting of new content" by utilizing a New Content Acquisition Agent which acquires the new content and its rights. Lastly, pgs 82-84 of 99 give a specific example of describing new content within a request submitted by the user. With reference to the newly added substance of the new content not having an existing record, the examiner believes it would have been obvious to one of ordinary skill in the art to understand that if there is new information being submitted that the new data cannot have an existent record. Thus, fully disclosing the above-argued feature.

Applicant argues, Lamkin provisional does not teach the identification of related/similar content and comparing that content with new content.
Examiner respectfully disagrees. Lamkin provisional teaches "providing services that facilitates the access and use of related content to provide improved content" (see pg. 5 of 99, 3rd paragraph), thus corresponding to the id of related content. Also, Lamkin provisional discloses the comparing of content on pages 8 of 99 and 94 of 99.

Applicant argues, Lamkin does not teach the claimed automatically completing fields within said new content record.
Examiner respectfully disagrees. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); In re Merck & Co., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Moreso, while the applicant argues that it is the combination as a whole (which is correct), the applicant cannot permissibly argue a singular reference as not disclosing a particular feature, wherein that particulat feature being argued was not truly rejected under that particular reference. Therefore leading to an invalid interpretation and argument.

Applicant argues Lissar fails to teach automatically completing fields, updating the records of duplicate or related content with information about the specific content associated with said new content record to synchronize all the content records, and using information which is available across the multiple devices.
Examiner respectfully disagrees. To begin, in response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); In re Merck & Co., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In particular, Lissar was not relied upon for the disclosure of updating the records of duplicate or related content with information about the specific content associated with said new content record to synchronize all the content records, and using information which is available across the multiple devices. However, Lissar does teach reading data of other fields during data entry of fields in a record to automatically provide suggestions for inputting data into other fields of the record (see col.2, lines 57-67), which corresponds to the above-argued feature of automatically completing fields.